



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/870,373 | 05/30/2001 | LaVonne Cule | BELA 4280.1 | 7437 |

321 7590 02/25/2005

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER

MUHEBBULLAH, SAJEDA

ART UNIT PAPER NUMBER

2174

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/870,373

Applicant(s)

CULE ET AL.

Examiner

Sajeda Muhebbullah

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is responsive to Amendment filed on 6/15/2004.
2. Claims 1-20 and 22-31 are pending in this application. Claims 1, 15, 20, and 29 are independent claims. In the Amendment, claims 1, 13, 15, 17, 20, 24 and 29 were amended, claim 21 were cancelled and claims 30-31 were added. This action is made Final.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8, 14-20, 22-23, and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cain (US 5,720,502) in view of Richardson (US 6,314,405).

As per independent claim 1, Cain teaches a method of graphically indicating patient information, said method comprising the steps of:

receiving information identifying one or more conditions of the patient (Cain, col. 3, lines 40-49; col. 4, lines 49-57);

selecting at least one icon from the plurality of icons, said selected icon corresponding to at least one of the identified conditions of the patient (Cain, col. 4, lines 57-63); and

creating the fixed image, said fixed image including the selected icon located at the predetermined position in the fixed image (Cain, col. 4, lines 57-63).

However, Cain fails to teach relating each of the plurality of icons to a predetermined position in a fixed image associated with a patient. Richardson teaches an icon driven method of

Art Unit: 2174

displaying patient information whereby a plurality of icons relates to a predetermined position of a fixed image associated with a patient (Richardson, col.4, lines 34-47). It would have been obvious to one of ordinary skill in the art at the time of the invention to include Richardson's teaching with Cain's method in order to provide a quicker method of associating an icon to the corresponding body part.

As per claim 2, which is dependent on claim 1, Cain teaches the method of claim 1, further comprising the step of proximally associating the image with the patient (Cain, col. 4, lines 57-63).

As per claim 3, which is dependent on claim 1, Cain teaches the method of claim 1, wherein the conditions are selected from the group consisting of: hearing impairment, right arm weakness, left arm weakness, special diet, no lift, one person lift, two person lift, comatose, total lift, right leg weakness, left leg weakness, cardiac, pivot lift, wheelchair bound, vision impairment, Alzheimer's, potentially combative, incontinent, turn and reposition, cognitive impairment, potential to elope, diabetic, and speech impairment (Cain, col. 5, lines 25-27).

As per claim 4, which is dependent on claim 1, Cain teaches the method of claim 1, further comprising the step of associating an electronic representation of the image with the patient (Cain, Fig. 3; col. 4, lines 52-53).

As per claim 5, which is dependent on claim 1, Cain teaches the method of claim 1, wherein the step of creating the fixed image includes generating an electronic representation of the image and moving each of the selected icons to its predetermined position on the image (Cain, col. 4, lines 57-63).

Art Unit: 2174

As per claim 6, which is dependent on claim 5, Cain teaches the method of claim 5, further comprising the step of printing the image with the selected icons in their respective, predetermined positions on the image (Cain, col. 4, lines 63-67).

As per claim 7, which is dependent on claim 5, Richardson teaches the method of claim 5, further comprising the step of executing a computer program for automatically positioning the selected icons in their respective, predetermined positions on the image (Richardson, col. 4, lines 45-47).

As per claim 8, which is dependent on claim 5, Cain teaches the method of claim 5, further comprising the step of storing the image with the selected icons in a computer readable medium (Cain, col. 4, lines 63-67).

As per claim 14, which is dependent on claim 1, Cain teaches one or more computer readable media having computer-executable instructions for performing the method recited in claim 1 (Cain, col. 4, lines 49-52).

Independent claims 15, 20, and 29 are similar in scope to claim 1, and are therefore rejected under similar rationale.

As per claim 16, which is dependent on claim 15, Cain teaches the system of claim 15, wherein the creation component comprises a software application stored on a computer readable medium (Cain, col. 4, lines 49-52).

Dependent claim 17 is similar in scope to claim 5, and is therefore rejected under similar rationale.

Dependent claim 18 is similar in scope to claim 4, and is therefore rejected under similar rationale.

Art Unit: 2174

Dependent claim 19 is similar in scope to claim 6, and is therefore rejected under similar rationale.

As per claim 22, which is dependent on claim 20, Cain teaches the method of claim 20, further comprising the step of allowing the user to create a fixed representation of the image (Cain, col. 4, lines 57-63).

Dependent claim 23 is similar in scope to claim 2, and is therefore rejected under similar rationale.

Dependent claim 28 is similar in scope to claim 14, and is therefore rejected under similar rationale.

As per claim 30, Cain teaches the method of claim 1, further comprising displaying the fixed image (Cain, Fig.3).

As per claim 31, Cain teaches the method of claim 1, wherein the fixed image provides privacy for the patient by displaying information regarding the at least one of the identified conditions with the selected icon (Cain, col. 4, lines 57-63).

5. Claims 9-10, 13, and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cain and Richardson in view of Evans (US 5,924,074).

As per claim 9, which is dependent on claim 8, the method Cain and Richardson teaches a field in which the patient's name may be entered onto the electronic form (Cain, col. 4, lines 24-27), but fails to teach the step of searching for a stored image based on a name associated with the patient.

However, Evans teaches scanning the list to select the name of the appropriate patient (Evans, col. 5, lines 63-65). It would have been obvious to one skilled in the art at the time of

Art Unit: 2174

invention to include the name searching system of Evans in the health care communication method Cain and Richardson because it would provide easy and immediate access to the records stored within the system.

As per claim 10, which is dependent on claim 9, Evans further teaches the method of claim 8, further comprising the step of modifying a stored image associated with a particular patient when the conditions of the particular patient change (Evans, col. 5, lines 7-13).

As per claim 13, which is dependent on claim 1, Evans further teaches the method of claim 1, further comprising the step of alerting a health care worker to the at least one of the identified conditions of the patient via the image (Evans, col. 5, lines 21-25).

As per claim 25, which is dependent on claim 20, the method Cain and Richardson fails to teach the method further comprising the step of allowing the user to select with the user interface selection device a form from the group consisting of: an accident investigation report, an employee information test, an employee report of injury, an employee resident survey, a facility to do list, an incident report, a patient information form, a resident handling ergonomics program, a resident handling program key and explanation, a resident handling program training outline, and at least one safety form.

Evans however, teaches an electronic medical records system that includes a patient data form that the user may select (Evans, Fig. 5; col. 6, lines 55-67 and col. 7, lines 1-5). It would have been obvious to one skilled in the art at the time of invention to include the multiple forms of Evans in the health care communication method Cain and Richardson because it would provide the user with a graphically organized system allowing for easy access to patient's records (Evans, col. 6, lines 40-42).

Art Unit: 2174

As per claim 26, which is dependent on claim 25, Evans further teaches the method of claim 25, further comprising the step of allowing the user to customize the selected form by inputting information relevant to the selected form (Evans, col. 6, lines 55-67 and col. 7, lines 1-5).

As per claim 27, which is dependent on claim 26, Evans further teaches the method of claim 26, further comprising the step of storing each customized form in a computer readable medium (Evans, col. 2, lines 22-24).

6. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cain and Richardson in view of Dunn (US 4,656,603).

As per claim 11, which is dependent on claim 1, the method Cain and Richardson fails to teach the method of claim 1, further comprising the step of customizing at least one icon to represent a specific condition.

Dunn teaches creating new icons and functions, and inputting the parameters which establish the formal rules for each icon and function (Dunn, col. 5, lines 56-60). It would have been obvious to one skilled in the art at the time of invention to use the ability to create new icons of Dunn in the medical communication method Cain and Richardson because it would provide the user with more descriptive icons, therefore allowing for more accurate notation of the diagnoses.

As per claim 12, which is dependent on claim 11, Dunn further teaches the method of claim 11, further comprising the step of maintaining an archive of original and modified images (Dunn, col. 2, lines 21-25).

Art Unit: 2174

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cain and Richardson in view of McCrae et al. ("McCrae", US 3,826,237).

As per claim 24, the method Cain and Richardson fails to teach the method of claim 20, wherein at least one of the icons is linked to at least one other icon such that selecting the at least one icon from the menu automatically selects the at least one other icon.

McCrae teaches a medical treatment flow chart system in which adding a specific type of node, or icon, automatically adds another node, or icon, to the flow chart (McCrae, col. 8, lines 59-67). It would have been obvious to one skilled in the art at the time of invention to use the linked icons in the medical diagnosis system of McCrae in the medical communication method Cain and Richardson because it would reduce the amount of work the user would be required to do to ensure all notations were made properly.

Response to Arguments

8. Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

Art Unit: 2174

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Communications

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sajeda Muhebbullah whose telephone number is (571) 272-4065. The examiner can normally be reached on Tuesday/Thursday from 8:00 am to 4:30 pm (EST) and on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (571) 272-4063.

The fax number for the organization where this application or proceeding is assigned are as follows:

(703) 746-7238 [After Final Communication]

(703) 872-9306 [Official Communication]

(703) 746-9915 [For status inquiries, Draft Communication]

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Sajeda Muhebbullah
Patent Examiner
Art Unit 2174

Kristine Kincaid
KRISTINE KINCAID
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100